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CITY OF SANTA BARBARA
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Honorable Mayor Schneider and Members of the City Council
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

RE: Appeal of March 17, 2011 Planning Commission Decision
CalTrans, District 5 – Highway 101 Operational Improvements, Salinas Ramps Amendment
MST 2004-00701 (CDP2011-00003)

Dear Mayor Schneider and Members of the City Council:

Brownstein Hyatt Farber Schreck represents John and Helen Free. We submit this appeal letter on behalf of John and Helen Free as owners of Santa Barbara Sunrise RV Park, located at the corner of Highway 101 and Salinas Street (516 South Salinas Street). By this appeal, we request that the City Council reverse the Planning Commission's March 17, 2011 approval of an amendment to the Coastal Development Permit (CDP) for CalTrans' Highway 101 Operational Improvements Project. The amendment would allow changes to the configuration of the Salinas Street on/off ramps, addition of a new through lane of traffic on the northbound side of Highway 101, removal or deletion of landscaping near the on/off ramps, reduction in the size of the freeway median, changes to the landscaping in the freeway median, relocation of a portion of the sound wall, and removal of a portion of the sound wall just completed along the freeway frontage and the Frees' property.

This amendment to the Highway 101 Operational Improvements (Milpas to Hot Springs) Project will negatively impact the Frees' business and submit their guests to risk of property damage, personal injury and even death. The change to the project did not undergo the thorough environmental analysis or public review mandated by the California Environmental Quality Act (CEQA). As explained in greater detail below, the project materials available for public inspection prior to the hearing, and the plans submitted at the Planning Commission hearing, did not provide adequate information to allow members of the public, particularly adjacent residents and businesses, or the decision-makers to understand the proposed project's potential impacts.

Requested Action

We request that the City Council uphold this appeal, overturning the Planning Commission's decision to approve the CDP amendment and (1) require that the applicant and staff work together to redesign the project to comply with City policies and guidelines and to protect the safety of the guests of Sunrise RV Park as well as the safety of the traveling public, and (2) conduct the required environmental review, including adequate opportunity for meaningful public input, before having the Planning Commission reconsider the proposed project.

Grounds for Appeal

The Proposed Project Constitutes an Unconstitutional Regulatory Taking of Private Property.

The modifications to the originally approved Highway 101 Operational Improvements project in this area will have substantial detrimental impacts on the operation of Santa Barbara Sunrise RV Park with no mitigation or compensation having been proposed for this loss. This constitutes an unconstitutional taking of property. The previous, and as yet uncompleted, phase of this CalTrans project included construction of a sound wall on an easement located on the Frees' property. Before construction began on that project phase, many of the Santa Barbara Sunrise RV Park guests were nurses working locally on a temporary basis. Most of these nurses worked the night shift. CalTrans construction significantly impacted the Park's business and good will and the business is still recovering. Because of the construction noise, these guests ceased to patronize the Sunrise RV Park. Because the construction continued over such a long period of time and included nighttime construction activity, even vacationers elected not to stay at the Park. CalTrans removed the Frees' privacy fence early in the project but left the sound wall unconstructed for many months, so Park visitors had no sense of privacy or security. They may as well have been parked on the side of the busy freeway. The Park's vacancy rate shot up and preconstruction occupancy rates have not yet been restored. Since the completion of the sound wall in or around July 2010 the Park has been in the gradual process of rebuilding its reputation and good will to attract new visitors. CalTrans' proposal to remove a portion of the sound wall on the Free property and undertake new construction adjacent to the RV Park, including the reduction of landscaping, will have a profound impact upon the Park's ability to recover its lost trade. The proposed removal of a portion of the sound wall constructed to reduce noise impacts not only will adversely affect this business in the short-term with more construction noise and disturbances for patrons, but will result in the long-term impacts of increased noise and vibrations, potential circulation issues associated with the redesigned off ramp, and increased risks of injury from out of control vehicles using the substandard ramps at Salinas Street. These issues are discussed in greater detail below.

The Project Was Not Adequately Analyzed as Required by CEQA. CalTrans, as the lead agency for this project, adopted an EIR Addendum (CalTrans Addendum), dated February 23, 2011, finding that the "only minor technical changes or additions to the previous [EIR] are necessary." The Planning Commission made a finding that the CEQA analysis was adequate environmental documentation for the amended project.

However, CEQA Guidelines section 15164(e) requires that the decision not to prepare a subsequent EIR must be "supported by substantial evidence." Neither CalTrans nor the City provided substantial evidence to demonstrate that the conditions described in CEQA Guidelines section 15162, calling for the preparation of a subsequent EIR, do not exist. In fact, the changes to the project do have the potential to result in one or more significant effects not discussed in the previous EIR. Pursuant to Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163, CalTrans must prepare and circulate a subsequent or supplemental EIR to document the project changes, analyze the potential environmental impacts, identify appropriate mitigation measures, and allow the public an opportunity to review and comment.

Specifically, the proposed project changes include reconfiguration of the Salinas Street on/off ramps; widening Highway 101 to three travel through-lanes in the vicinity of the Salinas Street on/off ramps; reducing or eliminating previously proposed and/or installed landscaping in the median and adjacent to the new sound walls, relocating a portion of the sound wall near the Salinas off ramp, removing of a portion of the wall adjacent to the Salinas on ramp and along the RV Park's frontage, installing new guard railings, and enclosing a portion of a drainage ditch in a box culvert. These changes will increase or result in new environmental impacts related to noise, circulation and traffic, public safety, wetlands, views/aesthetics, and land use and planning policy consistency. Substantial evidence has not been provided to demonstrate that these impacts can or will be adequately mitigated. The public has not

been afforded adequate opportunity required by law to review and comment on the environmental impacts and mitigation measures. Each of these impacts are discussed below:

- o **Noise.** The EIR prepared by CalTrans concluded that pre-project ambient noise levels exceeded both City Noise Element guidelines and Federal Highway Administration standards. CalTrans included sound walls in the original project design to mitigate noise impacts resulting from the project and cumulative noise impacts. The sound wall installation included a substantial block wall between the freeway travel lanes and the RV Park. With the amendment, CalTrans now proposes to remove a substantial portion of the brand new sound wall that provides protection for the RV Park. The amendment also includes removal or deletion of virtually all of the landscaping approved for the area adjacent to the RV Park and the Salinas on- and off-ramps. In short, CalTrans now proposes to remove important mitigation measures without conducting a thorough environmental analysis of the resulting impacts to visual resources and noise. Clearly, removal of part of the sound wall will increase noise and vibrations within the RV Park. Removal of the sound wall section closest to the exit and elimination of the landscape buffer between the highway and RV Park will expose occupants of RVs parked at the Sunrise RV Park to unmitigated noise from the freeway. CalTrans and City staffs' analyses do not quantify or provide any analysis of potential impacts from these proposed changes or include any evidence to support the conclusion that these changes "do not represent a significant change to the temporary or long term noise impacts of the original project" (Planning Commission Approval Findings, pp. 3-4).
- o **Circulation and Traffic Safety.** CalTrans and City staffs' analyses do not include any analysis of how the redesigned Salinas Street on/off ramps and the removal of the section of wall closest to Salinas Street will impact circulation and traffic safety in the adjacent neighborhood. Removal of a section of the sound wall that now protects the RV Park introduces a new safety impact. In the past, vehicles using the Salinas Street exit have overshot the curve and have flown into the RV Park. The recently installed sound wall, because it is constructed of solid block, provides some protection from out of control vehicles unable to make the Salinas Street curve. With the present configuration of the northbound freeway lanes, those exiting at Salinas Street are in a lane clearly marked as an exit lane so they are forewarned to slow for the exit. With the proposed project amendment, this exit lane will become a third northbound through-lane so travelers exiting at Salinas Street will be traveling at full freeway speeds onto an exit with a sharp curve. The hazard is particularly dangerous at night when drivers cannot see that the exit is short and sharply curved and when the freeway is lightly traveled so vehicles tend to be traveling at higher speeds. This is the very time that the RV owners are most likely to be inside their RVs. Removal of the sound wall section closest to the exit and elimination of the landscape buffer between the highway and RV Park will expose occupants of RVs parked at the Sunrise RV Park to a serious safety hazard from drivers unfamiliar with the exit overshooting the curve and entering the Park at high speeds. The Park has experienced out of control vehicles plowing into the Park, including one such incident that damaged a fence and an RV very recently. Luckily, no one was injured or killed, but the hazard is real, not imagined. This is a significant impact that must be analyzed under CEQA.

The project plans provided for public inspection and even those presented during the Planning Commission hearing did not show how the reconfigured Salinas Street off-ramp will align with Salinas Street as it exists today because the project plans are cut off immediately north of the ramps. The redesigned ramps do not look like they could feasibly align with the existing roadway. If this is true, additional changes would be required to Salinas Street that have not been disclosed or evaluated.

The project plans also fail to show how the redesign will affect ingress and egress for the RV Park, the driveway for which is very close to the ramps. This reconfiguration could make it difficult for RVs to exit from the Park and turn right directly onto the freeway, as they always have in the past.

If the alignment of Salinas Street changes, the right turn out of the Park could become too tight, forcing exiting RVs to turn directly into oncoming traffic using the off-ramp. Because the off-ramp is short and sharply curved, the sight distance is inadequate for both the oncoming traffic and for the exiting RVs. To avoid this hazard, the RVs would need to instead turn left, again into fast moving traffic exiting the freeway at the off-ramp, and then travel through the narrow, car-lined streets in the residential neighborhoods between the RV Park and Milpas Street – resulting in traffic, noise and air quality impacts that CalTrans has not analyzed.

- o **Wetlands.** The staff report and CalTrans Addendum acknowledge that replacing the ditch culvert in the original project design with a box culvert will result in new impacts to wetlands. CalTrans proposes 800 square feet of planting in Sycamore Creek to offset this impact. However, there is not substantial evidence to support a finding that the mitigation is adequate to address this new impact. Per CEQA Guidelines section 15162, this impact and proposed mitigation, which was not evaluated in the previous EIR, requires subsequent environmental and public review.
- o **Views/Aesthetics.** When the Highway 101 Operational Improvements (Milpas to Hot Springs) Project was originally approved, the City required that the median be widened from the CalTrans proposed 6 feet to 10 feet in order to be consistent with City policies and guidelines related to views and aesthetics along the Highway 101 corridor. The redesign would now reduce the median width to between 6 and 3.25 feet for a distance of 2,284 feet. Planned landscaping on the sides of the freeway would also be reduced or eliminated and some existing landscaping removed. The Planning Commission's findings state that the loss of trees and screening vegetation is a potentially significant impact (Planning Commission Findings, p. 5). The proposed mitigation is the installation of additional landscaping for a stretch of approximately 1,900 feet at another location along the freeway. This does not mitigate the impacts on this stretch of the freeway, particularly the visual impacts of the vital (but not particularly attractive) sound walls. The reduction of the median will make this section of the freeway look exactly like the downtown Los Angeles freeways. This is not consistent with the policies of the City or the expectations of local residents. It also creates an unsuitable and unacceptable gateway to our City.

There is no substantial evidence to demonstrate that the redesigned improvements will not have a significant impact based on the City's thresholds or that off-site mitigation, at a ratio of less than 1:1, is adequate to mitigate the new impact. In fact, the staff report states that an earlier and slightly different version of the project was reviewed by the City's Design Review Team (DRT) and Architectural Board of Review, both of which concluded that the proposed landscaping was inconsistent with the City's policies and guidelines and therefore unacceptable. Per the staff report, "All DRT members indicated that the loss of median landscaping was unacceptable, and a median no narrower than the 10 foot wide median approved as part of the Highway 101 Operational Improvements project is necessary to support appropriate planting. Individual members also indicated concern regarding the loss of landscaping along the sound walls" (Planning Commission Staff Report, p. 5). The evidence in the record demonstrates that additional environmental analysis is required to address the new visual impacts.

The CalTrans modeling and project plans all focus on views up and down the freeway. They do not show before and after simulations or overlays for the Salinas Street exit. Before and after simulations and overlays that show the changes to the sound walls and the layout at the Salinas Street ramps, and associated landscaping, is necessary for the public and decision-makers to understand and evaluate the project. Without this information, there is not substantial evidence to demonstrate that the project changes will not result in additional visual impacts. The removal of the sound wall and adjacent landscaping is a new significant impact that must be analyzed and mitigated if feasible. Therefore, supplemental environmental analysis and public review is required.

- o Land Use and Planning Policy Consistency. As stated above, there is substantial evidence in the record that the redesigned improvements are inconsistent with City policies and guidelines related to views and aesthetics. The City's Design Review Team, Architectural Board of Review, and Community Development staff all have identified inconsistencies. Inconsistency with City land use and planning policies applicable to this project is a significant impact under CEQA. This was not analyzed in the previous EIR and is not sufficiently analyzed in the addendum. CEQA requires that subsequent environmental review be conducted and an opportunity for public review and comment provided to fully consider the analysis and potential mitigation of the impacts.

Conclusion

Based on the foregoing, we respectfully request that the City Council reverse the Planning Commission's decision and deny this project until it can be redesigned to mitigate negative impacts and adequate CEQA review is completed.

Thank you for your time and consideration.

Sincerely,



Susan F. Petrovich

cc: Helen and John Free (by email)
Paul Casey, Community Development Director (by email)
Danny Kato, Senior Planner (by email)
Allison DeBusk, Associate Planner (by email)